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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 191004-0056]

RIN 0648-BI32

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Regulatory Amendment 27

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Vision Blueprint Commercial Regulatory Amendment 27 (Regulatory Amendment 27) to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this proposed rule would modify commercial fishing seasons, trip limits, and minimum size limits for selected snapper-grouper species in the South Atlantic exclusive economic zone (EEZ). The purpose of this proposed rule is to improve equitable access for commercial fishermen in the snapper-

grouper fishery, minimize discards to the extent practicable, and improve marketability within the snapper-grouper fishery.

DATES: Written comments on the proposed rule must be received by *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2019-0059," by either of the following methods:

- *Electronic submission:* Submit all electronic comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/docket?D=NOAA-NMFS-2019-0059>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Mary Vara, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.),

confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in required fields if you wish to remain anonymous).

Electronic copies of Regulatory Amendment 27 may be obtained from www.regulations.gov or the Southeast Regional Office website at

<https://www.fisheries.noaa.gov/action/regulatory-amendment-27-vision-blueprint-commercial-measures> includes an environmental assessment, regulatory impact review, and Initial Regulatory Flexibility Analysis (IRFA).

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery in the South Atlantic region is managed under the Snapper-Grouper FMP and includes blueline tilefish, snowy grouper, greater amberjack, red porgy, vermilion snapper, almaco jack, other jacks complex (lesser amberjack, almaco jack, and banded rudderfish), queen snapper, silk snapper, blackfin snapper, and gray triggerfish, along with other snapper-grouper species. The Snapper-Grouper FMP was prepared by the Council and is implemented by NMFS through

regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

During a series of stakeholder meetings in 2014, the Council gathered input from commercial fishermen throughout the South Atlantic region to develop a long-term strategic plan for managing the snapper-grouper fishery. Based on that input, the Council developed the 2016-2020 Vision Blueprint for the Snapper-Grouper Fishery (Vision Blueprint). The Vision Blueprint identified the goals, objectives, strategies, and actions that support the Council's vision for the snapper-grouper fishery and centers around four goal areas: Science, Management, Communication, and Governance. In 2015, the Council prioritized action items in the Vision Blueprint that would be addressed through amendments to the Snapper-Grouper FMP over the next 5 years. As part of this prioritization, the Council chose to focus on actions that would address the seasonality of access to certain snapper-grouper species and measures to lengthen fishing seasons to better utilize existing annual catch limits (ACLs) in the snapper-grouper fishery. To accomplish this, the Council began development of two regulatory amendments to the Snapper-Grouper FMP to

address the commercial and recreational sectors, respectively. Regulatory Amendment 27 includes modifications to the commercial sector management measures in the snapper-grouper fishery based on stakeholder input. The purpose of Regulatory Amendment 27 is to enable equitable access for commercial fishermen participating in the snapper-grouper fishery, and to minimize discards to the extent practicable, while improving marketability for some snapper-grouper species. Vision Blueprint Recreational Regulatory Amendment 26 to the Snapper-Grouper FMP, which would revise recreational management measures in the fishery, has been submitted to NMFS by the Council, and NMFS is developing a proposed rule.

Management Measures Contained in this Proposed Rule

This proposed rule would modify the commercial trip limits for blueline tilefish, greater amberjack, red porgy, and vermilion snapper; establish commercial split seasons for snowy grouper, greater amberjack, and red porgy; and establish a commercial trip limit for the other jacks complex. For the commercial sector, this proposed rule would also establish a minimum size limit for almaco jack, remove the minimum size limits for silk snapper, queen snapper, and blackfin snapper, and reduce the minimum size limit for gray triggerfish in the EEZ off the east coast of

Florida. The management measures in this proposed rule would apply on board a vessel for which a Federal commercial permit for South Atlantic snapper-grouper has been issued. Unless otherwise noted, all weights in this proposed rule are described in gutted weight.

Commercial Trip Limit for Blueline Tilefish

Currently, the commercial trip limit for blueline tilefish is 300 lb (136 kg) during the January through December fishing year. In Regulatory Amendment 27, the Council determined that management measures for blueline tilefish should be more consistent with snowy grouper management measures since the two species co-occur in parts of the Council's jurisdiction. Blueline tilefish and snowy grouper are both target species for fishermen north of Cape Hatteras, North Carolina, but access to these species in that area is limited early in the fishing year (during January through May) as a result of poor weather conditions. However, blueline tilefish are mostly an incidental catch during commercial harvest of snowy grouper occurring south of Cape Hatteras, North Carolina, through approximately Cape Canaveral, Florida. South of Cape Hatteras, commercial fishermen targeting snowy grouper tend to continue fishing for blueline tilefish after they have reached their snowy grouper trip limit and they report that

this practice results in increased discards of snowy grouper. Access to the blueline tilefish by the commercial sector has been further limited over the past few years, because the commercial sector for blueline tilefish has closed before the end of the fishing year as a result of reaching the commercial quota.

This proposed rule would modify the 300-lb (136-kg) commercial trip limit for blueline tilefish throughout the South Atlantic EEZ. During January 1 through April 30 each year, the commercial trip limit would be reduced to 100 lb (45 kg), and during May 1 through December 31 each year, the commercial trip limit would continue to be 300 lb (136 kg). The Council determined that a lower 100-lb (45-kg) commercial trip limit of blueline tilefish each year from January through April would help reduce snowy grouper discards by commercial fishermen operating south of Cape Hatteras, North Carolina, because the commercial trip limit for blueline tilefish would be met more quickly on a trip. This proposed rule would maintain the current 300-lb (136-kg) trip limit for blueline tilefish from May through December when good weather conditions are more likely to allow commercial fishermen in the northern portion of the Council's area of jurisdiction to have greater access to

the resource and optimize their harvest through an extended fishing season.

Commercial Split Season for Snowy Grouper

During the Council's development of the Vision Blueprint, stakeholders requested that the Council address regional differences in access to the snapper-grouper resource, including snowy grouper, and implement management approaches that would minimize discards. Commercial fishermen and other stakeholders notified the Council to an increase in snowy grouper discards when fishermen attempt to harvest the commercial trip limit of blueline tilefish, a co-occurring species, after reaching the commercial trip limit for snowy grouper. In addition, stakeholders stated the importance of snowy grouper in the commercial market during the early months of the year (January through April), when the harvest of shallow-water groupers is closed. Currently, the fishing year for snowy grouper is January 1 through December 31 and there is a single fishing season to harvest the commercial ACL (equivalent to the commercial quota) of 153,935 lb (69,824 kg), gutted weight, or 181,644 lb (82,392 kg), round weight.

After reviewing stakeholder input, the Council determined that allocating the majority (70 percent) of the commercial quota to a January through June fishing season

would ensure availability of snowy grouper when it is most valuable at the market and optimize access to this species for the majority of commercial fishermen in the South Atlantic. The Council also decided that allocating 30 percent of the commercial quota of snowy grouper for a July through December fishing season allows for the incidental harvest of snowy grouper when North Carolina commercial fishermen are targeting blueline tilefish. The Council determined that the longer grouper species are available in the marketplace, the more this benefits fishermen and communities in the South Atlantic.

This proposed rule would establish two commercial fishing seasons for snowy grouper of January 1 through June 30 (Season 1) and July 1 through December 31 (Season 2) within the current fishing year. This proposed rule would allocate the commercial quotas as 70 percent to Season 1, 107,754 lb (48,876 kg), and 30 percent to Season 2, 46,181 lb (20,947 kg). Any remaining commercial quota from Season 1 would be transferred to Season 2. Any remaining commercial quota from Season 2 would not be carried forward into the next fishing year.

Commercial Split Season and Trip Limit for Greater Amberjack

Currently, the commercial ACL (equivalent to the commercial quota) for greater amberjack is 769,388 lb (348,989 kg), the fishing year is March 1 through the end of February, and the commercial trip limit is 1,200 lb (544 kg) and applies in either round or gutted weight. During April of each year, the commercial harvest and possession limit for greater amberjack (equivalent to a commercial trip limit) is one fish per person per day or one fish per person per trip, whichever is more restrictive. Also during April each year, the sale and purchase of greater amberjack in or from the South Atlantic EEZ is prohibited on board a vessel for which a Federal commercial permit for South Atlantic snapper-grouper has been issued.

During the development of Regulatory Amendment 27, the Council determined that recent commercial harvests of yellowtail snapper have influenced the commercial harvest of greater amberjack. In 2017 and 2018, the commercial sector for yellowtail snapper closed 2 months prior to the end of that species' fishing year. The early closures of commercial yellowtail snapper resulted in commercial fishermen in Florida targeting greater amberjack more heavily, leading to earlier commercial closures of greater amberjack and price fluctuations that affect resource users throughout the South Atlantic. The Council expects that

dividing the commercial quota for South Atlantic greater amberjack between two seasons and reducing the commercial trip limit for the latter half of the fishing year would lengthen the greater amberjack commercial season and allow for a more equitable distribution and price stability of the greater amberjack resource throughout the South Atlantic.

Regulatory Amendment 27 and this proposed rule would specify two commercial fishing seasons for greater amberjack. The two seasons would be March 1 through August 31 (Season 1) and September 1 through the end of February (Season 2). The commercial quotas would be allocated as 60 percent to Season 1, 461,633 lb (209,393 kg), and 40 percent to Season 2, 307,755 lb (139,595 kg). Any remaining commercial quota from Season 1 would be added to the commercial quota in Season 2. Any remaining quota from Season 2 would not be carried forward into the next fishing year.

Additionally, Regulatory Amendment 27 and this proposed rule would modify the commercial trip limit for greater amberjack. During Season 1, the commercial trip limit would be 1,200 lb (544 kg) in round or gutted weight, and during Season 2, the commercial trip limit would be 1,000 lb (454 kg) in round or gutted weight. However,

during April each year, the commercial sale and purchase of greater amberjack would continue to be prohibited, and the harvest and possession limit would continue to be one fish per person per day or one fish per person per trip, whichever is more restrictive.

Commercial Split Season and Trip Limit for Red Porgy

Currently, the fishing year for red porgy is January 1 through December 31, and the commercial ACL (equivalent to the commercial quota) is 157,692 lb (71,528 kg), gutted weight, or 164,000 lb (74,389 kg), round weight. During January through April each year, the commercial sale and purchase of red porgy is prohibited on board a vessel for which a Federal commercial permit for South Atlantic snapper-grouper has been issued, and the commercial harvest and possession limit for red porgy (equivalent to a commercial trip limit) is three fish per person per day or three fish per person per trip, whichever is more restrictive. The commercial trip limit for red porgy is 120 fish from May 1 through December 31.

In the South Atlantic, red porgy spawn from January through May and spawning activity peaks from January through March. The current January through April prohibition on sale and purchase of red porgy and restrictive harvest and possession limit encompasses the

majority of the spawning season, and provides direct benefits to the stock by reducing fishing pressure on the spawning stock. However, during January through April commercial fishermen target two co-occurring species, vermilion snapper and gray triggerfish, while reporting discards of red porgy. Therefore, these discards of red porgy reduce the benefits of a spawning season closure for the stock when commercial fishermen target other co-occurring species. The Council determined that a commercial trip limit of 60 fish and a lower portion of the commercial quota during January through April would continue to constrain harvest to protect spawning fish, while allowing commercial fishermen to retain a sufficient amount of red porgy when targeting co-occurring species, thereby reducing discards of red porgy.

Regulatory Amendment 27 and this proposed rule would establish two commercial fishing seasons for red porgy. The first season would be January 1 through April 30 (Season 1), and the second season would be May 1 through December 31 (Season 2). The current fishing year would not change. The commercial quotas would be allocated as 30 percent to Season 1, 47,308 lb (21,459 kg) gutted weight, 49,200 lb (22,317 kg), round weight; and 70 percent to Season 2, 110,384 lb (50,069 kg) gutted weight, 114,800 lb (52,072

kg), round weight. Any remaining commercial quota from Season 1 would be added to the commercial quota in Season 2. Any remaining quota from Season 2 would not be carried forward into the next fishing year. The proposed rule would remove the current commercial sale and purchase prohibition and the possession limit of three fish per person per day or three fish per person per trip, whichever is more restrictive, during January 1 through April 30.

Additionally, Regulatory Amendment 27 and this proposed rule would modify the commercial trip limits for red porgy during the Season 1 to be 60 fish. During Season 2, the commercial trip limit for red porgy would continue to be 120 fish.

Commercial Trip Limit for Vermilion Snapper

Currently, the commercial fishing year for vermilion snapper is from January 1 through December 31. The commercial ACL (equivalent to the commercial quota) is divided equally between two commercial fishing seasons as January 1 through June 30 (Season 1) and July 1 through December 31 (Season 2). Any remaining commercial quota from Season 1 is added to the commercial quota for Season 2. Any remaining commercial quota from Season 2 is not carried forward into the next fishing year. During both Season 1 and Season 2, the commercial trip limit for vermilion

snapper is 1,000 lb (454 kg). Additionally, if NMFS estimates that 75 percent of the vermilion snapper commercial quota during either season is met or is projected to be met, NMFS will publish a notice in the **Federal Register** to reduce the commercial trip limit to 500 lb (227 kg).

Fishermen requested that the Council consider reducing the commercial trip limit in Season 2, as many more snapper-grouper species are available for harvest during that time and a reduced commercial trip limit would be expected to extend the fishing season for vermilion snapper. In addition, Abbreviated Framework Amendment 2 to the Snapper-Grouper FMP was recently implemented (84 FR 14021, April 9, 2019) that increased the total ACL for vermilion snapper based on the results of the latest stock assessment in 2018. Therefore, the Council determined that there is no longer a need to have a trip limit reduction for vermilion snapper. Also, as described in Regulatory Amendment 27, maintaining the current commercial trip limit would ensure economic profitability and efficient use of the vermilion snapper resource.

Regulatory Amendment 27 and this proposed rule would remove the trip limit reduction for vermilion snapper from both seasons but retain the 1,000 lb (454 kg) commercial

trip limit. Any remaining commercial quota from Season 1 would continue to be added to the commercial quota for Season 2, and any remaining commercial quota from Season 2 would not be carried forward into the next fishing year.

Minimum Size Limit for Almaco Jack

There is currently no commercial minimum size limit for almaco jack. This proposed rule would establish a commercial minimum size limit of 20 inches (50.8 cm), fork length (FL), in the South Atlantic EEZ. Fishermen with Federal commercial permits for South Atlantic snapper-grouper reported their concerns to the Council about the small size, and resulting poor commercial value, of some of the almaco jack being landed. The minimum size limit for the commercial sector of 20 inches (50.8 cm), FL, would allow more individual almaco jack to reach reproductive activity before being susceptible to harvest, and is projected to increase the average size and the corresponding average weight of fish harvested.

Commercial Trip Limit for the Other Jacks Complex

Currently, there is not a commercial trip limit for species in the other jacks complex, which includes lesser amberjack, almaco jack, and banded rudderfish. Regulatory Amendment 27 and this proposed rule would establish a commercial trip limit for the other jacks complex of 500 lb

(227 kg). In 2014, stakeholders told the Council that almaco jack, which typically dominate commercial landings of species in the other jacks complex, are an incidental catch on trips targeting vermilion snapper. The Council determined that commercial fishermen would benefit from being able to profit from those incidental catches of almaco jack if they were to achieve a higher price per fish, since the market value of almaco jack (and the other species in the other jacks complex) is increasing. Because the commercial sector for the other jacks complex has historically closed before the end of the fishing year, fishermen told the Council that a 500-lb (227-kg) commercial trip limit for the other jacks complex would still allow them to make a profitable trip, and the proposed commercial trip limit would enable fishermen to have the added benefit of an extended commercial season for the other jacks complex. In addition, Council members noted that banded rudderfish are commercially important in the springtime, particularly in April when the commercial harvest of greater amberjack is closed. Although some commercial trips can land over 1,000 lb (454 kg) of banded rudderfish during certain times of the year, the Council determined it would be more equitable for commercial fishermen, and better for the long-term sustainability of

the other jacks complex resource, to establish a 500-lb (227-kg) commercial trip limit for this species complex.

Minimum Size Limit for Queen Snapper, Silk Snapper, and Blackfin Snapper

Queen snapper, silk snapper, and blackfin snapper are part of the deep-water complex. Currently, the commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper is 12 inches (30.5 cm) total length (TL), but the remaining species in the deep-water complex do not have a specified minimum size limit requirement. The 12-inch (30.5-cm) TL commercial minimum size limit was implemented for queen snapper, blackfin snapper, and silk snapper early in the management of the snapper-grouper fishery, before estimates of discard mortality were available, and before the creation of the various species complexes by the Council. All of the species in the deep-water complex (yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, and blackfin snapper) are typically associated with a high discard mortality. The Council determined that removing the commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper would reduce discards and discard mortality for these species. Therefore, Regulatory Amendment 27 and this proposed rule would remove the

commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper.

Minimum Size Limit for Gray Triggerfish

The current commercial minimum size limit for gray triggerfish in the South Atlantic EEZ is 14 inches (35.6 cm) FL off the east coast of Florida and 12 inches (30.5 cm) FL off North Carolina, South Carolina, and Georgia. Regulatory Amendment 27 and this proposed rule would reduce the commercial minimum size limit to 12 inches (30.5 cm) FL in the EEZ off the east coast of Florida. In 2015, the 12-inch (30.5-cm) FL commercial minimum size limit was implemented for gray triggerfish in the EEZ off North Carolina, South Carolina, and Georgia, and a commercial minimum size limit of 14 inches (35.6 cm) FL was implemented in the EEZ off the east coast of Florida (80 FR 30947, June 1, 2015). This was a precautionary action taken by the Council in response to their concerns about the status of the South Atlantic gray triggerfish stock, to align Federal regulations off the east coast of Florida with those in the Gulf of Mexico, and achieve consistency between state and Federal regulations off the east coast of Florida. However, after the commercial minimum size limit went into effect on July 1, 2015, stakeholders in Florida expressed concern to the Florida Fish and Wildlife

Conservation Commission (FWC) regarding increasing discards of gray triggerfish in south Florida where the average size of gray triggerfish is less than that off northeast Florida. In response to that concern, the FWC reduced the recreational minimum size limit of gray triggerfish in state waters to 12 inches (30.5 cm) FL in 2017, and requested that the Council develop consistent size limit regulations in Federal waters for gray triggerfish. Therefore, reducing the commercial minimum size limit to 12 inches (30.5 cm) FL would make these state and Federal regulations for gray triggerfish consistent off the east coast of Florida, off the other South Atlantic states, and in Federal waters throughout the Council's jurisdiction.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Regulatory Amendment 27, the Snapper-Grouper FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This rule is expected to be an Executive Order 13771

deregulatory action.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

NMFS prepared an initial regulatory flexibility analysis (IRFA) for this proposed rule, as required by section 603 of the RFA, 5 U.S.C. 603. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of this proposed rule, why it is being considered, and the purposes of this proposed rule are contained in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The objective of this proposed rule is to improve management of the commercial sector of the snapper-grouper fishery to better achieve optimum yield, while minimizing, to the extent practicable, the adverse socio-economic effects of regulations on commercial fishing entities in the South Atlantic.

This proposed rule, if implemented, would make the following changes to the regulations for the commercial snapper-grouper fishing industry in the South Atlantic region. This proposed rule would reduce the commercial trip

limit for blueline tilefish from 300 lb (136 kg) to 100 lb (45 kg) from January 1 through April 30. For snowy grouper, this proposed rule would establish two commercial fishing seasons of January 1 through June 30 (Season 1) and July 1 through December 31 (Season 2), rather than a single season within the fishing year, allocate 70 percent of the commercial quota to Season 1 and 30 percent to Season 2, and transfer any remaining commercial quota from Season 1 to Season 2 only. For greater amberjack, this proposed rule would establish two commercial fishing seasons of March 1 through August 31 (Season 1) and September 1 through the end of February (Season 2), rather than a single season within the March through February fishing year; allocate 60 percent of the commercial quota to Season 1 and 40 percent to Season 2, and add any remaining commercial quota from Season 1 to Season 2 only; and reduce the commercial trip limit from 1,200 lb (545 kg) in round or gutted weight to 1,000 lb (454 kg) in round or gutted weight for Season 2. For red porgy, this proposed rule would remove the sale and purchase prohibition, and the possession limit of three fish per person per day or three fish per person per trip during January 1 to April 30 each year; specify two commercial fishing seasons for red porgy of January 1 through April 30 (Season 1) and May 1 through December 31

(Season 2) within the fishing year; allocate 30 percent of the commercial quota to Season 1 and 70 percent to Season 2; and establish a commercial trip limit of 60 fish in Season 1. This proposed rule would also remove the in-season reduction of the commercial trip limit in Season 1 and Season 2 for vermilion snapper, establish a commercial minimum size limit of 20 inches (50.8 cm) FL for almaco jack, establish a commercial trip limit of 500 lb (227 kg) for the other jacks complex, remove the 12-inch (30.5-cm) TL commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper, and reduce the commercial minimum size limit for gray triggerfish from 14 inches (35.6 cm) to 12 inches (30.5 cm) FL in the EEZ off the east coast of Florida. Therefore, this proposed rule is expected to directly regulate businesses that are active in the commercial snapper-grouper fishing industry.

As of August 17, 2018, the number of vessels with a valid or renewable Federal commercial permit for South Atlantic snapper-grouper was 644, composed of 536 transferable, unlimited snapper-grouper permits and 108 non-transferable, 225-lb (102 kg) trip-limited permits. With the exception of species-specific trip limits, there is no aggregate snapper-grouper harvest limit per trip for vessels with unlimited snapper-grouper permits, while

vessels with trip-limited permits cannot harvest more than 225 lb (102 kg) of all snapper-grouper species per trip. On average, only 584 vessels used their commercial permits for harvesting purposes from 2012 through 2016. Some permit holders retain their permits for speculative or other non-harvesting purposes. The majority of vessels harvest multiple snapper-grouper species. The proposed rule will only directly regulate permit holders that actually use their permits for harvesting purposes. Therefore, it is expected that approximately 584 vessels will be directly regulated by this proposed rule.

Although NMFS started to collect ownership data for businesses that possess commercial snapper-grouper permits in 2017, this data is currently incomplete and historical data is not available. Therefore, it is not currently feasible to accurately determine affiliations between these particular businesses. As a result of the incomplete ownership data, for purposes of this analysis, it is assumed each of these vessels is independently owned by a single business, which is expected to result in an overestimate of the actual number of businesses directly regulated by this proposed rule. Therefore, this proposed rule is estimated to directly regulate 584 businesses in the commercial snapper-grouper fishing industry.

All monetary estimates in the following analysis are in 2016 dollars. For vessels that were active in the snapper-grouper fishing industry from 2012 through 2016, average annual gross revenue was approximately \$44,000 per vessel. Average annual net cash flow per vessel was approximately \$8,300 while net revenue from operations was approximately \$2,000 per vessel. Net revenue from operations is the best available estimate of economic profit.

The Small Business Administration has established size standards for all major industry sectors in the U.S. including commercial fishing businesses. On December 29, 2015, NMFS issued a final rule establishing a small business size standard of \$11 million in annual gross receipts (revenue) for all businesses primarily engaged in the commercial fishing industry (NAICS code 11411) for RFA compliance purposes only (80 FR 81194, December 29, 2015). In addition to this gross revenue standard, a business primarily involved in commercial fishing is classified as a small business if it is independently owned and operated, and is not dominant in its field of operations (including its affiliates). The maximum average annual gross revenue from 2012 through 2016 for a single vessel in the commercial snapper-grouper fishing industry was about \$1.6

million. Based on the information above, all businesses directly regulated by this proposed rule are determined to be small businesses for the purpose of this analysis.

This proposed rule, if implemented, would be expected to directly regulate the 584 active vessels with commercial permits in the South Atlantic snapper-grouper fishery of the 644 vessels that currently possess those permits. All directly regulated businesses have been determined, for the purpose of this analysis, to be small entities. Based on this information, the proposed rule is expected to affect a substantial number of small businesses.

The action to reduce the commercial trip limit for blueline tilefish from 300 lb (136 kg) to 100 lb (45 kg) from January 1 through April 30 is expected to directly regulate approximately 134 vessels. These vessels' average annual gross revenues were \$82,411 per vessel from 2012 through 2016. Average annual net revenue from operations for these vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Thus, annual net revenue from operations (economic profit) for these vessels is estimated to be about \$3,300 per vessel. Average annual gross revenue per vessel is expected to increase by about \$13 per year, which would result in an increase in economic profit of about 0.4 percent for these

vessels.

For snowy grouper, the action to establish two commercial fishing seasons of January 1 through June 30 (Season 1) and July 1 through December 31 (Season 2) rather than a single season within the fishing year, allocate 70 percent of the commercial quota to Season 1 and 30 percent to Season 2, and to add any remaining commercial quota from Season 1 to Season 2 only, is expected to directly regulate approximately 149 vessels. These vessels' average annual gross revenues were \$85,475 per vessel from 2012 through 2016. Average annual net revenue from operations for these vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Therefore, annual net revenue from operations for these vessels is estimated to be about \$3,400 per vessel. This action is not expected to affect landings, annual gross revenue, or harvesting costs, and thus economic profit for these vessels is not expected to change.

For greater amberjack, the action to establish two commercial fishing seasons of March 1 through August 31 (Season 1) and September 1 through the end of February (Season 2) within the fishing year, allocate 60 percent of the commercial quota to Season 1 and 40 percent to Season 2, add any remaining commercial quota from Season 1 to

Season 2 only, and reduce the commercial trip limit from 1,200 lb (545 kg) in round or gutted weight to 1,000 lb (454 kg) in round or gutted weight for Season 2 is expected to directly regulate approximately 263 vessels. These vessels' average annual gross revenues were \$62,578 per vessel from 2012 through 2016. Average annual net revenue from operations for these vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Thus, average annual net revenue from operations for these vessels is estimated to be about \$2,500 per vessel. This action is expected to reduce average annual gross revenues to these vessels by about \$34, which represents less than 0.1 percent of their average annual gross revenues, and about 11.4 percent of their average annual economic profit. Although a quantitative estimate cannot be provided due to lack of data, this action is also expected to cause a minor increase in these vessels' operating costs. In general, trip limits are expected to increase costs because commercial fishing vessels must take more trips to harvest and land the same amount of fish. The more restrictive the trip limit, the greater the expected increase in costs. The proposed reduction in the commercial trip limit for Season 2 is 200 lb (91 kg) in round or gutted weight per trip, or

about 17 percent of the current trip limit. A 17 percent reduction is not a large reduction in general and the reduction only applies in Season 2. Thus, this action would be expected to slightly reduce these vessels' economic profits.

For red porgy, the actions to remove the sale and purchase prohibition and the possession limit of three fish per person per day or three fish per person per trip during January 1 to April 30 each year, establishing two commercial fishing seasons of January 1 through April 30 (Season 1) and May 1 through December 31 (Season 2) within the fishing year, allocate 30 percent of the commercial quota to Season 1 and 70 percent to Season 2, and establish a commercial trip limit of 60 fish in Season 1 is expected to directly regulate approximately 160 vessels. These vessels' average annual gross revenues were \$73,366 per vessel from 2012 through 2016. Average annual net revenue from operations for commercial vessels in the snapper-grouper fishery was approximately 4.5 percent of their average annual gross revenue from 2014 through 2016. Thus, annual net revenue from operations for these vessels is estimated to be about \$3,300 per vessel. The expected increase in annual gross revenue from this action is about \$335 per vessel, representing an increase of about 0.5

percent of average annual gross revenues but a 9 percent increase in economic profit. The decision to harvest red porgy during the months when sales and purchase are currently prohibited could lead to additional harvesting costs, but these would be self-imposed and, assuming standard business practices by owners of commercial vessels, the additional gross revenues will exceed the additional costs (*i.e.*, economic profit is expected to increase). Moreover, the red porgy landings that would be expected during January through April are likely fish that were previously discarded due to the current prohibition. If these landings are fish that were previously discarded, then no additional costs would be incurred and the additional gross revenue would represent additional economic profit to these vessels as well.

The action to remove the in-season commercial trip limit reduction for vermilion snapper in both seasons is expected to directly regulate approximately 206 vessels. These vessels' average annual gross revenues were \$66,330 per vessel from 2011 through 2016. Average annual net revenue from operations for these vessels was approximately negative 1 percent of their average annual gross revenue from 2014 through 2016 (*i.e.*, these vessels have been generating economic losses). Thus, annual net revenue from

operations for these vessels is estimated to be about negative \$6,600 per vessel. This action is expected to result in a reduction of \$42 in average annual gross revenue per vessel, which is a minimal change relative to annual average gross revenues, but would increase economic losses by about 0.6 percent. However, the action is also expected to change the cost of harvesting vermilion snapper. In general, trip limits are expected to increase costs because commercial fishing vessels must take more trips to harvest and land the same amount of fish. The more restrictive the trip limit, the greater the expected increase in costs. Under the current regulations, the commercial trip limit for both seasons is reduced by 50 percent, from 1,000 lb (454 kg) gutted weight to 500 lb (227 kg) gutted weight, when 75 percent of the commercial quota in either season is harvested, which is significant. Further, changes in trip limits within a fishing year and particularly within a season can introduce inefficiencies in the production process as commercial fishing vessels must adjust their operations to account for such changes. While these inefficiencies are likely not as great when the trip limit changes are known well in advance, they become particularly acute when the owners of commercial fishing vessels do not know if or when the trip limit change is

going to occur, which is the case under the current regulations. Further, because at least some owners of commercial fishing vessels would prefer to fish when the trip limit is greater, trip limit reductions can result in mini-fishing derbies (race-to-fish) within a season. Splitting the commercial quota between seasons only partially mitigates this effect. Although models are not available to quantitatively estimate the expected changes in costs, the elimination of the trip limit reduction is expected to significantly reduce these vessels' harvesting costs, likely more than offsetting the relatively minor reduction in gross revenue. Therefore, this action is expected to increase economic profit for these vessels.

The action to establish a commercial minimum size limit of 20 inches (50.8 cm) FL for almaco jack is expected to directly regulate approximately 165 vessels. These vessels' average annual gross revenues were \$77,267 per vessel from 2012 through 2016. Average annual net revenue from operations for these vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Thus, average annual net revenue from operations for these vessels is estimated to be about \$3,100 per vessel. Average annual gross revenue per vessel is expected to decrease by about \$4 per vessel under the

action, which is minimal (*i.e.*, about 0.1 percent of economic profit), and thus unlikely to affect these vessels' fishing behavior. However, establishing a minimum size limit will also lead to discarded fish. Thus, commercial fishing vessels would have to exert more effort per trip or take more trips to land the same amount of almaco jack, which would lead to higher costs. The more restrictive the minimum size limit, the greater the amount of discarded fish and thus the greater the expected increase in costs. The increase in costs per vessel could be considerably higher than the minimal increase in average annual gross revenue per vessel, depending on the amount of almaco jack that vessels are forced to discard and how much additional effort they exert to maintain their landings and revenue. However, the increase in cost may be partially offset through a higher price received for larger sized fish, but the extent to which this effect will occur is unknown due to lack of data on the variability of prices across almaco jack of different sizes. Based on this information, this action may reduce the economic profits of these 165 vessels.

The action to establish a commercial trip limit of 500 lb (227 kg) for the other jacks complex is expected to directly regulate approximately 210 vessels. These vessels'

average annual gross revenues were \$69,363 per vessel from 2012 through 2016. Average annual net revenue from operations for these vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Therefore, annual net revenue from operations for these vessels is estimated to be about \$2,800 per vessel. Given the proposed commercial minimum size limit for almaco jack discussed in the previous action, establishing a commercial trip limit for the other jacks complex is expected to result in a reduction of \$28 in average annual gross revenue per vessel, or about 1 percent of the average annual economic profit. However, establishing a minimum size limit is also expected to increase costs, which would decrease economic profit even further. The magnitude of the increase in costs depends on how much additional effort commercial vessels must exert to maintain their landings and revenues. Therefore, economic profit for these vessels is expected to be reduced.

The action to remove the 12-inch (30.5-cm) TL commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper is expected to directly regulate approximately 94 vessels. These vessels' average annual gross revenues were \$93,154 per vessel from 2012 through 2016. Average annual net revenue from operations

for these vessels was approximately 4 percent of their average annual gross revenue from 2014 through 2016. Thus, annual net revenue from operations for these vessels is estimated to be about \$3,700 per vessel. This action is expected to result in a minimal increase in landings of queen snapper, silk snapper, and blackfin snapper. However, commercial fishing vessels have only harvested about 43 percent of the commercial ACL for the deep-water complex since blueline tilefish was removed from that complex. Therefore, landings of queen snapper, silk snapper, and blackfin snapper could increase significantly without any concern of exceeding the commercial ACL for the deep-water complex. Further, with the elimination of the minimum size limit, vessels would be able to increase their landings per unit of effort for these species, thereby decreasing the cost per pound of fish landed. Therefore, this action would be expected to increase the economic profit of these vessels to some extent.

The action to reduce the commercial minimum size limit for gray triggerfish in the EEZ off the east coast of Florida from 14 inches (35.6 cm) to 12 inches (30.5 cm) FL is expected to directly regulate approximately 213 vessels. These vessels' average annual gross revenues were \$65,661 per vessel from 2012 through 2016. Average annual net

revenue from operations for these vessels was approximately 2 percent of their average annual gross revenue from 2014 through 2016. Thus, annual net revenue from operations for these vessels is estimated to be about \$1,300 per vessel. This action is expected to result in an increase in annual gross revenue per vessel of approximately \$10, which would represent an increase the average vessel's economic profit of about 0.8 percent per year. Reducing the minimum size limit for gray triggerfish will also allow commercial fishing vessels to harvest these species with less effort. As such, this action would also be expected to decrease the cost per pound of harvest, though by how much is unknown due to the lack of appropriate models. Thus, this action is expected to result in a modest increase in these vessels' economic profit.

Based on the information above, average annual gross revenues for the 584 active commercial snapper-grouper vessels is expected to increase by about \$33,400, or approximately \$57 per vessel, as a result of all the actions in this proposed rule. This increase represents only about 0.1 percent of these vessels' average annual gross revenues, but about 3 percent of their average annual economic profit. Harvesting costs are expected to significantly decrease for vessels harvesting vermilion

snapper and slightly decrease for vessels harvesting gray triggerfish, while they are expected to increase for vessels harvesting greater amberjack, almaco jack, and species in the other jacks complex. Because of these countervailing effects on harvesting costs, harvesting costs for many commercial snapper-grouper vessels will likely change little if at all. Thus, economic profit for the average commercial snapper-grouper vessel is expected to increase slightly or remain relatively the same, though some vessels could experience a reduction in economic profit.

Five alternatives, including the *status quo*, were considered for the proposed action to reduce the commercial trip limit for blueline tilefish from 300 lb (136 kg) to 100 lb (45 kg) from January 1 through April 30. The *status quo* alternative and the other four alternatives were not selected because they are not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic. The *status quo* alternative is also not expected to increase economic profits for the affected small entities.

Two alternatives, including the *status quo*, were considered for the proposed action to establish, for snowy

grouper, two commercial fishing seasons of January 1 through June 30 (Season 1) and July 1 through December 31 (Season 2) within the calendar fishing year, allocate 70 percent of the commercial ACL to Season 1 and 30 percent to Season 2, and transfer any remaining quota from Season 1 to Season 2. The *status quo* alternative and the other alternative were not selected because they are not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic.

Nine alternatives, including the *status quo*, were considered for the proposed action to establish, for greater amberjack, two commercial fishing seasons of March 1 through August 31 (Season 1) and September 1 through February 31 (Season 2) within the March through February fishing year, allocate 60 percent of the commercial ACL to Season 1 and 40 percent to Season 2, transfer any remaining quota from Season 1 to Season 2, and reduce the commercial trip limit from 1,200 lb (545 kg) in round or gutted weight to 1,000 lb (454 kg) in round or gutted weight for Season 2. The *status quo* alternative was not selected because it is not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic. Six of the other

alternatives are expected to decrease economic profits for the affected small entities more than the proposed action and thus were not selected. The other two alternatives are expected to reduce economic profits less than the proposed action, but were not selected because they are not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic.

For red porgy, seven alternatives, including the *status quo*, were considered for the proposed action to remove the sale and purchase prohibition and the possession limit of three per person per day or three per person per trip during January 1 to April 30 each year, specify two commercial fishing seasons of January 1 through April 30 (Season 1) and May 1 through December 31 (Season 2) within the fishing year, allocate 30 percent of the commercial ACL to Season 1 and 70 percent to Season 2, and establish a commercial trip limit of 60 fish in Season 1. The *status quo* was not selected because it is not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic and is not expected to increase economic profits for the affected small entities.

Five alternatives, including the *status quo*, were

considered for the proposed action to remove the trip limit reduction in both seasons for vermilion snapper. None of these alternatives were selected because they are expected to result in lower economic profits for the affected small entities, while three of these alternatives are also expected to result in significantly higher regulatory costs to the government.

Four alternatives, including the *status quo*, were considered for the proposed action to establish a commercial minimum size limit of 20 inches (50.8 cm) FL for almaco jack. The *status quo* was not selected because almaco jack less than 20 inches (50.8 cm) FL are not considered to be of a marketable size (*i.e.*, they are difficult if not impossible to sell at a price that would not lead to economic losses) and therefore would likely be discarded. Thus, the *status quo* alternative is not expected to achieve the Council's goals of improving the marketability of certain species and minimizing discards. The other three alternatives are expected to result in even higher discards, which is contrary to the Council's goal of minimizing discards, and are also expected to reduce economic profits for the affected small entities more than the proposed action.

Three alternatives, including the *status quo*, were

considered for the proposed action to establish a commercial trip limit of 500 lb (227 kg) for the other jacks complex. The *status quo* alternative was not selected as it is not expected to achieve the Council's goal of enabling more equitable access to the resource for fishermen from different areas of the South Atlantic. The other two alternatives are expected to reduce economic profits more than the proposed action and therefore were not selected.

One alternative, the *status quo*, was considered for the proposed action to remove the 12-inch (30.5-cm) TL commercial minimum size limit for queen snapper, silk snapper, and blackfin snapper. The *status quo* alternative was not selected because it is expected to result in higher discards, which is contrary to the Council's goal of minimizing discards, and is also expected to result in lower economic profits for the affected small entities.

One alternative, the *status quo*, was considered for the proposed action to reduce the commercial minimum size limit for gray triggerfish in the EEZ off the east coast of Florida from 14 inches (35.6 cm) to 12 inches (30.5 cm) FL. The *status quo* alternative was not selected because it is expected to result in higher discards, which is contrary to the Council's goal of minimizing discards, and is also

expected to result lower economic profits for the affected small entities.

No new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this proposed rule does not implicate the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Grouper, Snapper, South Atlantic.

Dated: October 7, 2019.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

§ 622.184 [Amended]

2. In § 622.184, remove paragraph (c).

3. In § 622.185, revise paragraphs (a)(3) and (c)(2), and add paragraph (c)(6) to read as follows:

§ 622.185 Size limits.

* * * * *

(a) * * *

(3) *Cubera*, *gray*, and *yellowtail snappers*--12 inches (30.5 cm), TL.

* * * * *

(c) * * *

(2) *Gray triggerfish*. (i) For a fish taken by a person not subject to the bag limit specified in § 622.187(b)(8) --12 inches (30.5 cm), FL.

(ii) For a fish taken by a person that is subject to the bag limit specified in § 622.187(b)(8) --(A) In the South Atlantic EEZ off Florida--14 inches (35.6 cm), FL.

(B) In the South Atlantic EEZ off North Carolina, South Carolina, and Georgia--12 inches (30.5 cm), FL.

* * * * *

(6) *Almaco jack*. For a fish taken by a person not subject to the bag limit specified in § 622.187(b)(8)--20 inches (50.8 cm), FL.

4. In § 622.190, revise paragraphs (a)(1), (3), and (6) to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(1) *Snowy grouper*--(i) For the period January 1 through June 30 each year--107,754 lb (48,876 kg).

(ii) For the period July 1 through December 31 each year--46,181 lb (20,947 kg).

(iii) Any unused portion of the quota specified in paragraph (a)(1)(i) of this section will be added to the quota specified in paragraph (a)(1)(ii) of this section. Any unused portion of the quota specified in paragraph (a)(1)(ii) of this section, including any addition of quota specified in paragraph (a)(1)(i) of this section that was unused, will become void and will not be added to any subsequent quota.

* * * * *

(3) *Greater amberjack*--(i) For the period March 1 through August 31 each year--461,633 lb (209,393 kg).

(ii) For the period September 1 through the end of February each year--307,755 lb (139,595 kg).

(iii) Any unused portion of the quota specified in paragraph (a)(3)(i) of this section will be added to the quota specified in paragraph (a)(3)(ii) of this section. Any unused portion of the quota specified in paragraph

(a)(3)(ii) of this section, including any addition of quota specified in paragraph (a)(3)(i) of this section that was unused, will become void and will not be added to any subsequent quota.

* * * * *

(6) *Red porgy*--(i) For the period January 1 through April 30 each year--47,308 lb (21,458 kg), gutted weight; 49,200 lb (22,317 kg), round weight.

(ii) For the period May 1 through December 31 each year--110,384 lb (50,069 kg), gutted weight; 114,800 lb (52,072 kg), round weight.

(iii) Any unused portion of the quota specified in paragraph (a)(6)(i) of this section will be added to the quota specified in paragraph (a)(6)(ii) of this section. Any unused portion of the quota specified in paragraph (a)(6)(ii) of this section, including any addition of quota specified in paragraph (a)(6)(i) of this section that was unused, will become void and will not be added to any subsequent quota.

* * * * *

5. In § 622.191, revise paragraphs (a)(4) through (6), (10), and add paragraph (a)(14) to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(4) *Red porgy*. The following commercial trip limits apply until the applicable commercial quota specified in § 622.190(a)(6) is reached. See § 622.190(c)(1) for the limitations regarding red porgy after the applicable commercial quota is reached.

(i) From January 1 through April 30--60 fish.

(ii) From May 1 through December 31--120 fish.

(5) *Greater amberjack*. The following commercial trip limits apply until the applicable commercial quota specified in § 622.190(a)(3) is reached. See § 622.190(c)(1) for the limitations regarding greater amberjack after the applicable commercial quota is reached.

(i) From March 1 through August 31--1,200 lb (544 kg).

(ii) From September 1 through the end of February--1,000 lb (454 kg).

(6) *Vermilion snapper*. Until the applicable commercial quota specified in § 622.190(a)(4) is reached--1,000 lb (454 kg), gutted weight. See § 622.190(c)(1) for the limitations regarding vermilion snapper after the applicable commercial quota is reached.

* * * * *

(10) *Blueline tilefish*. The following commercial trip limits apply until the commercial ACL specified in §

622.193(z)(1)(i) is reached. See § 622.193(z)(1)(i) for the limitations regarding blueline tilefish after the commercial ACL is reached.

(i) From January 1 through April 30--100 lb (45 kg), gutted weight; 106 lb (48 kg), round weight.

(ii) From May 1 through December 31--300 lb (136 kg), gutted weight; 318 lb (144 kg), round weight.

* * * * *

(14) *Other jacks complex (lesser amberjack, almaco jack, and banded rudderfish)*. Until the commercial ACL specified in § 622.193(l)(1)(i) is reached--500 lb (227 kg), gutted weight; 520 lb (236 kg), round weight. See § 622.193(l)(1)(i) for the limitations regarding the other jacks complex after the commercial ACL is reached.

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